

CARLISLE PLANNING BOARD

Feb. 12, 1968

Present were: H. Hosmer P. Swanson
J. Macone T. Herndon
F. Smith

I. Public Hearing on Plan of Maynide Inc.

The hearing opened with a summary by D. Perley, the Board's engineering consultant, of his recommendations with regard to the northerly access, Baldwin Road, and the subdivision road proper. His letter is attached.

A member of the audience then asked if the Benjamin Report had ever been accepted by a vote of the town. Mr. Hosmer noted that it had not, but that the Board had used it consistently as a guideline for its actions.

Mr. Bobby Buchanan summarized the abuttor's letter of Feb. 5, to the Board, and presented the alternate plan detail, noting that it was their opinion that to construct the northerly road would cost no more than \$8,000 in excess over the Baldwin Road widening, which would amount to an approximate 1.5% increase in the cost of the homes in the development. Mr. Don Cochran noted that the abuttor's proposal was a closer approximation to the Benjamin Report plan than the Baldwin Road widening option. Mr. Peter Aspinwall observed that a large "dog leg" will exist in the future town road if the northerly route is not followed, and Mr. Ralph Anderson queried the Board as to whether "water and wet areas" were required to be shown on the definitive plan. The Clerk read the applicable rule, which was vague in defining precisely what, in the way of "major features" should be shown in the definitive plan.

Mr. Terry Herndon then inquired of Mr. Perley as to the engineering soundness of widening Baldwin Road as proposed. Mr. Perley replied that he felt the proposal was inadequate, and that good sub grade and a new pavement should be installed, preferably to the 24 foot town requirement.

Mr. Joe Macone inquired of the abuttors' as to the acceptability of the northerly access option by their group. Mr. Buchanan replied that it was acceptable to all abuttors with the possible exception of Mr. Walter Worth, who had not been polled on this subject.

Mr. Hosmer explained to the audience about the Board's involvement with the abuttor's group, and of their help in this difficult matter. He asked that group to supply Mr. C. DeBonis with a copy of their summary which they had sent to the Board, and thanked them for their efforts in the Town's behalf. He then explained that the topic of the hearing was not matter for popular vote, but rather that the hearing served to disseminate information and to give the Board the opportunity to consider any and all relevant comments on the subject. He went on to define the basic problem under consideration as being that of whether the Board can require a developer to acquire land in order to build an access road, if that developer already had access on an existing town way.

At the Chairman's request, Mr. DeBonis then summarized his current position which was that he was out considerable time and some money, and

that he was going to "stand on my proposal as presented." He felt that he had a perfect right to use a public way to gain access to his land, and that if he abided by the Town's Subdivision Control Law, approval should be forthcoming. Also, he noted that Baldwin Road seemed adequate to him to serve the nine lots within his development, and that he would widen the road, either to keep the center of the roadway as now extant, or to wiggle his widening some to accommodate the abutters, as the Board preferred. He finally mentioned that he understood that the culmination of his many meetings with the Board had resulted in a negotiated arrangement with the Board.

The Chairman pointed out that the Board had not made any "agreement" negotiated or otherwise, and remained open minded on the entire problem. He further noted that the Board usually accepted its professional consultant's advice on drainage, and it would quite probably require certain modifications to the subdivision plan to make that plan comply with Mr. Perley's recommendations.

Mr. Farnham Smith observed that due to probable future construction along Baldwin Road, it would be quite likely that the road would require widening in the future, and that that this point should be considered by the Board.

Mr. R. Anderson expressed his opinion as to the relative difference between the developer's potential financial loss versus the the Town's loss if Baldwin Road were widened. He felt that the Town would suffer the greater loss. He also questioned the developer's past performance in Carlisle, noting that the developer had said that \$40,000 -50,000 custom houses were to be built, but that he was currently constructing two identical specification houses, alleged to cost \$22,000 on the building permit. Also, he noted that construction of one house had to be stopped by the building inspector because a permit had not been obtained.

Mr. Daniel Bickford was asked for his views on the proposal, and he replied that the developer had not approached him at any time, and it was his opinion that this indicated a complete lack of desire by the developer to use the northerly access option. He felt strongly that the Town should be assured that if Baldwin Road were widened, that it be done properly.

The Chairman commented on Mr. Anderson's observations about financial hardship, by stating that such possible hardships were of secondary importance to the question of best interests of the town and powers of the Board.

Mr. Marshall Simonds explained that the Mass. Land Corp, abutter to the development and over whose land the porposed northerly access would go was in essence owned by himself and Mr. Bickford. He noted that he hadn't been informed of the Hearing until two hours prior to its starting, and that he generally agreed with Mr. Bickford's remarks. He further observed that it was the Board's duty in his opinion, to decide on the plan as submitted, and not digress into other possibilities until such a decision was taken.

The Chairman described the general procedure of submitting a preliminary sketch plan for the Board's comment or possible modification, after which the definitive plan is submitted, which the Board can accept, reject, or modify, as it deems proper.

Mrs. D. Cochran read an excerpt from the Board's report in the 1959 Town Report noting that the Board had, at that time expressed its desire to see sound long-range planning, and that she felt the northerly access option was the most proper way to carry out such planning.

The Chairman, for the benefit of the audience, then reviewed the history of the Board's investigation into the northerly access option, and what that option entailed.

Mr. F. Aspinwall stated that if the Benjamin-proposed connector were ever built, the Town might find that Stearns St. would have to be widened to carry the probable added traffic. Thus, the Town would save some money in the widening, if the northerly access were built, since it would not have to widen that section of the total. However, if the Baldwin Road option were used, the Town would quite possibly have to widen that section, which would be an added expense.

The Chairman remarked on the sporadic growth of town roads, and mentioned that most are probably narrower than desirable. In this regard he said that one reason that the Board had felt that an 18' wide Baldwin Road was adequate was that the remainder of Baldwin Road as well as Stearns St. were very narrow, and that a 24' wide Baldwin Road might be disproportionately wide under these conditions.

Mr. Aspinwall said that he continued to feel that the northerly access would be a long-range saving to the Town.

Mr. D. Cochran cited Mr. Perley's recommendations, and thought that a proper requisite to approval would be the condition that all work be done to an adequate standard. Also, he inquired if the Board had the power to make such a precondition, and whether or not the Board could enforce widening of a road if, after construction had started, the developer claimed that it would be a "hardship" for him to widen as agreed upon because of unforeseen technical reasons.

The Chairman answered that the Board has the power to prevent lots from being released for sale until all work was done to its standards, and that the Board would certainly make such a requirement, as it has in the past. However, Mr. Hosmer felt that it is not clear that the Board can require the developer to widen Baldwin Road, since it is a town way, but that if the developer wishes to undertake such a widening, the merits of that request should be considered, as the Town would undoubtedly benefit. The Chairman went on to correct a statement made by the abutters in their first letter to the Board, where they had stated that the Board had not sought the advice of Town Counsel in this matter. Mr. Hosmer said that since he had been uncertain as to the right of the Board to contact Town Counsel directly, he had spoken with the Chairman of the Board of Selectmen about the advisability of doing so, and a decision had been reached at that time that Counsel would be contacted when sufficient data became available for Counsel to work with. The Chairman inquired who else besides the Board the letter had been sent to, and Mrs. D. Cochran said that it had been sent to Board members only.

Mr. B. Buchanan observed that it was his impression that the position of the Baldwin Road pavement shown on the developer's plan was inaccurate, noting that Mr. DeFranshesco's mailbox was shown as being at the edge of the widened pavement, where in fact it is at the edge of the existing unwidened pavement.

Mr. Bearse commented that he thought the developer had done a great deal for the town, and that his proposal was a "good deal."

Mr. Kenneth Evans asked if the developer still proposed to build \$40,000 - 48,000 homes in the area, and Mr. DeBonis answered that the planned price would be in the \$37,000 -52,000 range. Mr. Cochran asked how could that be the case if the present houses were costing \$22,000 as stated on the building permits. The Chairman interjected his observation that the Board had to arrange for a proper road layout and plan, regardless of cost of homes, and that such cost whatever it might be, had nothing to do with the Board's duties.

Mr. Simonds asked who owns the land along Baldwin Road, and whether or not it was releasable. Mr. DeBonis replied that he was quite certain that the Town has a 32' right of way along the road, and that he had briefly investigated this. Mr. Hosmer explained to the meeting that the Board had requested that Mr. DeBonis look into this matter, as it would have an effect on the feasibility of exercising the Baldwin Road widening option.

Mr. K. Evans asked if and how the Town was going to face up to the problem of widening narrow Town roads to specifications. Mr. Edward Clark responded that he would certainly face up to it, if the Town Meeting would vote him funds. He further stated that most roads in town are "improved roads" which means that they are basically dirt roads, later gravelled and still later black-topped, with poor foundations and short lifetimes. He noted that these roads can be patched torn out and done properly, or simply resurfaced, and that the exact procedure would depend on the particular road. He also observed that Mr. DeBonis would have to obtain a permit from the Selectmen to protect the Town, before he could proceed to work on Baldwin Road.

Mr. Hosmer asked Mr. Clark if Baldwin Road in its presently poor condition, could be properly widened by simply putting on "wings" to one side or the other. Mr. Clark responded that it would be a marginal proposition at best, but that the Town could later resurf the road after it had been widened. Mr. Buchanan asked if the pavement only was being widened, or would shoulders be required. Mr. Clark thought that at least 3' wide gravel shoulders would be necessary, and that the widening should take place in such a way to least inconvenience the abutters. Mr. F. Smith asked Mr. Clark if the shoulders were put on, would the road be alright. Mr. Clark said that it would be a "great improvement". Mr. Cochran asked what Mr. Perley's advice had been, and Mr. Hosmer replied that he had advised tearing up the road and starting from scratch.

Mr. Clark note that it might be interesting to have the development road come in from the northerly access, and then back out on Baldwin Road as the existing plan proposed.

Mr. R. Anderson asked if Mr. DeBonis was going to put in shoulders along Baldwin Road. Mr. DeBonis replied that he would certainly try to work out a satisfactory arrangement with the Town in this regard. Mr. D. Cochran asked why the Board wouldn't follow the advice of its engineering consultant. The Chairman noted that it would probably be illegal for the Board to require that the developer completely rip up an existing town way and then rebuild it, and that the developer was unlikely to do

the developer was unlikely to follow that course of action voluntarily. The Chairman again called the audience's attention to the basic problem before the meeting, by summarizing three topics which the Board had to resolve. They were: Is it better to widen Baldwin Road or not? Is it better to go in by the north way? Does the Board have the power to require either of the developer?

Mr. D. Spaulding asked what reasons existed for not going in by the northerly access. The Chairman noted that he had just said that the Board was uncertain that it had the power to require this of the developer. Mr. Spaulding then commented that he felt that the Board should follow the Benjamin Report suggestions, and that it was certainly in the best interest of the town to make a wise rather than an expedient decision, as the final result would have a long reaching effect. The Chairman agreed and pointed out that the problem was most complex and had many ramifications, such as whether or not it was better to have several streets intersecting at one point as would happen in the case of the northerly access. Mr. Spaulding said that it seems proper in regard to such a point to take the advice of experts such as Mr. Benjamin and Mr. Perley.

Mr. M. Simonds remarked that he wasn't sure that the meeting understood what the Board's function was. He thought that the Board could not act solely in what it felt the best interests of the Town were, but could only act according to Statute. He went on to mention that there is a move afoot to remove local planning control to the State level, and if the Board were unreasonable in its decision, such an action could only lend support to the argument for centralization. He felt that the safety, health and welfare of the Town formed the only basis for a decision in the matter.

A member of the audience asked how it was in the best interest of the Board to require the developer to follow the northerly access route. The Chairman replied that his opinion was that the Board cannot force a developer to do this, but if the proposed plan is rejected, a negotiated solution might be possible.

Mr. K. Evans asked for a definition of Long Range Planning. The Chairman said that it mainly involved the arrangement of roads to the advantage of the Town, if possible, so far as the Board's powers were concerned. Mr. D. Spaulding inquired if Mr. DeBonis's mind was closed on the possibility of the northern access. Mr. DeBonis replied that since he had lost so much time that he felt he must follow his proposal since it was too late to change it. Mr. Cochran noted that it was his impression that that was Mr. DeBonis's stand in Oct. 1967. Mr. Hosmer commented that the plan had raised many questions and problems which had taken considerable time to deal with, and that many arrangements had been considered, with the result that the developer had been delayed for an unusual length of time.

Mr. J. Macone remarked that he wished to point out that when other developers had complied with the Board's suggestions, it had been of their own choice, and that the Board had not forced them to comply. He cited the Heald Road area as an example where the Board suggested a certain course of action and that the developer had voluntarily cooperated. Mr. F. Berry commented that that development had involved approximately 70 houses, and the Chairman agreed that the solution to problems in that area had been arranged, not forced.

Mr. Aspinwall stated that if Baldwin Road were widened on his side, that he would suffer damages thereby, since his home is already very near the edge of the existing pavement. He asked what the intent of the Board was, assuming that Baldwin Road were widened, and would the Board have a subsequent hearing or general meeting once a decision was reached, to clarify width considerations and land ownership questions. Mr. Hosmer replied that the primary task before the meeting was to determine where the access road should be, and that if Baldwin Road were widened, that he hoped that it could be done in a manner to minimize problems such as Mr. Aspinwall's. He thought that it would be proper to have an adjourned hearing to get appropriate views on specific details. Mr. DeBonis commented that his surveyor had tried to lay out the widening in a manner to avoid creating problems with abutter's front yards or houses.

Mr. F. Smith remarked that Mr. Benjamin would probably be the first to admit that the proposed extension from Russell St. to Stearns St. is the most expensive way to go, considering the swamp which part of it must cross. Mr. Cochran cited the Benjamin Report as stating that this connector was one of only three proposed roads which were really necessary in the Town. Mr. Smith felt that even though this was so, the Report shouldn't necessarily be used as a Bible.

Mr. Walter Worth reiterated his Oct. 5, 1967 letter by stating that he did not wish his lot to be diminished whatever access was decided upon.

Mr. Hosmer then asked Mr. Bickford if he had any feelings about where the road should be. Mr. Bickford remarked that the Police Chief had commented that if the Baldwin Road option were taken, he would have to make it a one way street in one direction in the mornings, and in the other direction in the afternoon. Mr. Bickford went on to say, as a private citizen, that he felt that the long range plan should be closely adhered to, since a connector from Russell St. to Stearns St. could conceivably be built. He felt that the Benjamin Report is a sensible summary of the Town's needs, and the necessity for the connector is evident. He advised the Board that he would be willing to co-operate in making access available along the notherly route, if it could be done without diminishing his total land area, but since Mr. DeBonis didn't seem at all interested in this proposition, he didn't know if there was any possibility of working out some arrangement. He felt that long range planning is critical and should be well done.

Mr. Smith inquired of Mr. Bickford where the connector might be routed, and Mr. Bickford replied that there was an old path from School St. in the vicinity of the Schweppe home over in the general direction of the Stearns St. area. However, he noted that there were wet areas along this route.

The Chairman then asked Mr. J. Arthur Taylor, who represented the Board of Selectmen, what the Selectmen's thoughts on the subject might be. Mr. Taylor stated that the Selectmen felt that the access to the development should follow the Benjamin Report connector route, or that proper easements should be obtained so that this direct route could be implemented in the future. Mr. Hosmer asked if the Selectmen felt that widening Baldwin Road at no cost to the Town was a

good thing, and Mr. Taylor said that it would.

A member of the audience then inquired whether, if Mr. DeBonis does not yield and does have a plan which is in accord with Town and Board laws, the Board could possibly reject the plan. Mr. Hosmer said that he couldn't speak for the Board, but it was his personal opinion that since the Benjamin Report was done at the Board's request, it could certainly use that document as a guide in its actions. The member of the meeting asked again whether the Board could force the developer to use the northerly access route, and Mr. Hosmer replied that he did not think that the Board could say that the road must be built across another person's property.

The Hearing was then adjourned.

III. Following the Hearing, Mr. Farmer brought in a plan for "pork chop" lots on the corner of Rutland and North Road, for Approval Not Required signature. The Clerk signed the plan after it had been viewed by the Board.

A problem was submitted to the Board with regard to one "pork chop" lot off of South Street belonging to Mr. Jenkins, who desired to sell the property. Mr. Eno the potential purchaser's lawyer had been in contact with the Chairman previously, and was present to outline the problem. A right of way from the South Street entrance to the lot runs along the side line of a portion of the lot and then splits the lot approximately in half. The questions were, does the right of way impair acreage, does the right of way cut down on allowable frontage, and can it be used for frontage on the lot. Mr. Hosmer commented that the matter was of sufficient complexity that answers could not be given immediately, but that he would look into the law concerning the matter, and that perhaps Town Counsel should be engaged also. Mr. Eno cited Bancroft vs. the Building Commission of Boston as possibly being a relevant precedent in the affair. The Chairman stated that because frontage and acreage requirements are large in Carlisle, the Board in the past, when complex problems of a unique nature came up, often allowed variance from its rules.

The Board concluded its regular meeting by signing bills for legal notices, and adjourned into executive session where it discussed the DeBonis problem. It was decided that the Chairman should see if he could get a written commitment of some sort from the Mass. Land Corp., which would spell out that group's requirements for a land swap to permit the northerly access route. After such data had been obtained, the Board could then meet privately to decide on a course of action.

Respectfully submitted
Terry O. Herndon - Clerk

There will be a Public Hearing at the Planning Board's next regular meeting on Feb. 12, 1968. The meeting will commence at 8:00 p.m. in room 18 of the Timothy Wilkins School.

The agenda will include:

1. Public Hearing on plan of Maynide, Inc.
(DeBonis).
2. J. Macone will have the proposed By-Pass plan available for discussion.
3. Discussion of the Historical District Commission's report.
4. Further review of changes in the Board's Rules and Regulations
5. CONNELLY ?